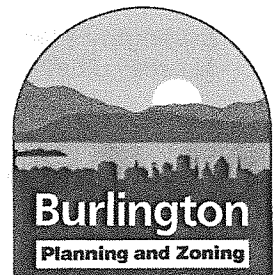


## Burlington Planning Commission

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Andy Montroll  
Harris Roen  
Jennifer Wallace-Brodeur  
Vacant, Youth Member



## Burlington Planning Commission

### REGULAR MEETING

Tuesday, March 8, 2011 - 6:30 P.M.

Conference Room #12, Ground Floor, City Hall

### AGENDA

Note: times given are  
approximate unless  
otherwise noted.

I. Agenda

II. Public Forum - Time Certain: 6:35 pm

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair – Peter Potts, Chair

IV. Report of the Director – David E. White, Director

V. Historic Building Materials Discussion

The Commission will continue its discussion of historic building materials requirements and discuss circumstances around usage of particular materials (See Articles 6 and 5.4.8 of the Comprehensive Development Ordinance)

VI. Downtown & Waterfront Plan Update

VII. Committee Reports

VIII. Commissioner Items

IX. Minutes / Communications - Minutes for the February 8 & 15, 2011 Commission meetings.

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X.     **Adjourn** (9:00 p.m.)

Decision Points for Historic Building Replacement Materials Issues (as of February 9, 2011)

The Commission has heard of several problems relative to historic building replacement materials issues. They include: a) the application of regulations as a "historic building" to an excessive number of properties; b) the tension between goals for historic preservation and those for reducing health and safety risks; c) the economic burden placed upon many owners in maintaining their properties according to strict standards of historic preservation; d) the uncertainty facing many owners regarding how their properties will be treated during the review process; e) maintaining the historic character of Burlington.

**Does the Commission agree that there are problems? Answer: Yes. If so, then does it believe the aforementioned is a complete and accurate list? Answer: Yes. If the Commission agrees there are problems, then let us consider the proposed solutions:**

1. Is the Commission comfortable with limiting regulation as a "historic building" to only those properties actually listed on the State or National Register? Answer: Yes
- 2.. If the Commission is comfortable with limiting regulation as stated above, should those properties listed on the State or National Register have reduced processing fees for applications and permits? Answer: No.
3. Should the Commission make a further distinction between what is listed on the State versus the National Register? Answer: No
4. If the Commission is comfortable with limiting regulation as stated above, would it wish to provide a measure of protection to those buildings which have historic value but have not yet been researched and listed? Answer: *The Commission does not wish to perpetuate the concept of historic register "eligibility". In the Commission's view, a property is either on a historic register or it is not. If not, then whether external alterations to the property are subject to review would depend upon whether the property is located in a Design Review District. The protection of any non-listed properties in the Design Review District would focus upon architectural design standards (such as retaining and respecting traditional mass, scale, spatial relationships, orientation, and major architectural features) rather than upon materials used.*
5. Would the Commission consider an expansion of the Design Review District? Answer: *At this time, the Commission is not interested in expanding the Design Review District to include any additional neighborhoods absent a request from residents of those neighborhoods.*
6. If the Design Control District were to be expanded, should there be a mechanism for owners to exempt their property from the district? Answer: No.
7. How does the Commission understand the relationship of life safety issues to historic building material replacement policy?
8. Specifically regarding the lead paint issue, does the Commission wish to exempt the Lead Paint Program from the development review process? Answer: No. If not, are there still any changes which the Commission wishes to make to how such applications for removal of lead-impregnated

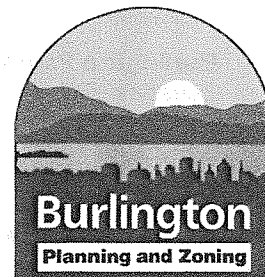
windows are treated? Answer: *The Commission is interested in exploring appropriate ways for expedition of the review process.*

9. How much should the Commission concern itself with the economic issue? Answer: *The Commission is interested in addressing this issue. It wishes to differentiate between approaches which would focus upon the property and the cost of different replacement materials and approaches which would focus upon personal income. It is interested in developing a formula which would consider materials costs perhaps as related to property value. A program helping individuals with low incomes would be a separate discussion at a later time. Staff Directive: Staff has been directed to propose a formula which would incorporate materials costs and avoid measures of personal income.*
10. Is the Commission comfortable that the Staff proposals if implemented would provide sufficient certainty to applicants about their properties and about the process? Partial Answer: *The Commission believes there is area for improvement in communicating with applicants about process. The current process is meant to be collaborative in practice but this is not as clearly articulated beforehand as it could be. The State Historic Preservation Office (SHPO) tries to clearly articulate the collaborative nature of their process and that could serve as a model to the Department.*
11. Where is there an issue with whether traditional materials on a historic structure should be replaced? Answer: *See the Commission's answer to #4.*
12. When is replacement of a historic material appropriate? Answer: *The Commission has been considering whether the "failure" of an historic material is the proper threshold. The Commission has been discussing how "failure" is determined. One suggestion: Have a qualified professional who deals with the material in question make the determination, much like how the City now allows replacement of slate roofs with an alternate material when a qualified slater determines that the slate roofs have failed. There is concern, however, that this could be expensive and that while "failure" may be appropriate for roofs, perhaps it is not necessarily the appropriate threshold for other materials, such as windows. In those cases, perhaps the test would be "functional obsolescence". However, there is also the point of view that people should be able to replace whatever they want whenever they want, as long as the materials used in the replacement are at least an acceptable substitute for the original. But the question arises: Would such an approach make our historic preservation standards pointless? The concept of "undue adverse impact" on the historic resource has been raised as the test in this situation but how would that be determined? Finally, how this all relates to life safety issues (particularly Fire Code egress requirements) has yet to be fully considered.*
13. With what do we replace a historic material? Answer: *The Commission is expressing an interest in development of a list of "pre-approved" materials from which an applicant can make selections as they may wish. The Commission also exhibits a strong preference for in-kind replacement, the use of performance criteria to evaluate other substitute materials and their installation and the limited application of untested substitute materials in order to evaluate their performance.*

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## Burlington Planning Commission Minutes Tuesday, February 8, 2011 - 6:30 pm

**Present:** B. Baker, Y. Bradley, L. Buffinton, A. Montroll, P. Potts, H. Roen, J. Wallace-Brodeur

**Absent:** None

**Staff:** D. White & S. Thibault

### I. Agenda

Move Item 6 (Intervale Management Plan) up to 2a.

### II. Public Forum

P. Potts – Opened the public forum at 6:35pm.

P. Potts - Closed the public forum at 6:35pm.

#### IIA - Intervale Management Plan

P. Potts – The Intervale Management Plan was referred to the Commission by the City Council with expectation of a response with comments by March 1.

D. White – In 2007, the City entered into a Memorandum of Agreement with the Intervale Center for the sale of 100 acres. One of the terms of the agreement was the creation of a management plan for the land that was never finally approved by the City. The Council Parks, Arts and Culture Committee (PACC) approved the plan and the full Council wants to hear from the Commission before the final adoption.

T. Marcotte – The Vermont Land Trust, who owns the land, has approved the plan. This is his second month as executive director but he has been with the organization for 5 years. The supplement on flood management is now being updated and might reflect some out of date information. The easement holders do not require the flood part of the plan.

D. White – The flood appendix will be a living document that will always be updated.

H. Roen – The plan should include the McKenzie Property plan as a reference. You should also include a natural community's map as part of the forest management plan. There has been a change in law concerning the current use status of land. There is no cutting needed anymore as a result of the change in the law.

**On a motion by L. Buffinton, seconded by Y. Bradley, the Commission unanimously endorses the Intervale Management Plan and recommends approval to the City Council.**

### III. Report of the Chair

The Chair presented the following report:

- He attended the Fair Housing Training workshop last week, which discussed the impediments to housing affordability in Burlington, a CEDO report.
- He completed the quarterly report of the Commission and sent to City Council.

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- He will be attending the TEUC meeting tomorrow night. The committee should be approving the Transportation plan and send it to the full Council for adoption into the MDP.
- He received an email from Jenny Davis letting him know that the City will be honoring board and commission members this year at Night of Success on March 31, 2011 at Memorial Auditorium.

#### **IV. Report of the Director**

The Director presented the following report:

- He will be meeting with a Burlington High School Student (BHS) this week and be his mentor for a sustainability independent study.

#### **V. Department's Proposed FY2012 Budget**

D. White – Gave a presentation on the FY 2012 department budget, especially explaining the possible impact of budget reductions on staff time and office hours. (See presentation at: <http://www.ci.burlington.vt.us/planning/pc/index.php>)

#### **VI. Interval Management Plan**

Moved up to 2A.

#### **VII. Downtown & Waterfront Plan Update**

S. Thibault – She presented the following update to the Commission:

- Thirteen proposals have been received for the Land Use Inventory and Buildout Analysis work. Staff will be reviewing the proposals in the next couple of weeks and pick a consultant team.
- Staff had their agreement negotiation conference call with HUD last week and is now working on getting approval from Board of Finance and City Council by February 15.
- An all-department staff meeting will be held this Friday to bring city staff up to speed with the project and discuss their involvement, especially in the preparation of a series of Request for Proposals for Phase 1 of the project.

#### **VIII. Neighborhood Meeting Proposal Update**

S. Thibault – She met with the NPA all-ward steering committee on January 27 and received comments that night. First, the NPAs would like 90 days to schedule an applicant, instead of the proposed 60 days. They also have some concerns about the major impacts threshold and were happy to hear that the Commission will be revisiting that. The NPAs will discuss the proposal at their March meeting and send along any additional comments on the proposal by the end of the month.

#### **IX. Historic Building Materials Discussion**

P. Potts – The Commission will focus on discussion of the decision points number 12 and 13 tonight.

D. White – Staff could provide information on pros and cons of specific materials. M. O'Neil was recently in Boston at a conference on substitute materials and will likely have good information to share. When is it ok or not to use replacement material? Our preference would be to use original material. For listed buildings, what is the test to establish if a material has failed or not?

H. Roen – Would be helpful to have examples of when a substitute material was allowed.

J. Wallace-Brodeur – If the property is listed on a register, what is the rationale to allow replacement with another material?

L. Buffinton – When allowing for a substitute material, we should not allow just anything to go on, like vinyl for example. We should have higher standards and use them to achieve the same look and preserve the overall quality of the building.

Y. Bradley – Buildings on the National register should be held to higher standards, with levels within the listed properties.

D. White – The criteria for listing at the state and national register are the same. Non-contributing buildings in a district are not held to the same standards.

Y. Bradley – What is the concept of failure?

D. White – We allow replacement with a substitute material when the original material has failed, as long as it's not detrimental to the building.

P. Potts – The criteria are the same for listing on the two registers, how about the process?

D. White – The level of documentation is different. The state always listed individual buildings in the past but they are now pushing for districts. When listing an individual building at the national level, there is a much higher level of review.

J. Wallace-Brodeur – Even when looking at national register properties, then substitute materials are allowed? Why should we re-invent the wheel if replacement is already allowed?

Y. Bradley – Failure is the key word. Reversibility is also key when using a substitute material.

D. White – The threshold of failure is also key in the question of replacement.

Y. Bradley – That also presents a level of protection of consumers over zealous contractors.

G. Bergman – The criteria of failure should be quantified.

H. Roen – There could be an economic definition of failure.

L. Buffinton – The threshold will need to be different depending on the material. There are other considerations for property owners such as cost, functionality, air movement and energy efficiency.

D. White – Demolition by neglect is another issue the Commission will need to deal with.

G. Bergman – The Commission should deal with that separately.

P. Potts – When is it appropriate to use replacement material? This is still the question that needs to be answered.

B. Baker – If most people can't tell the difference between the original and a substitute material, then it should be allowed.

L. Buffinton – We should also be open to new materials that we don't know about today.

A. Montroll – We could have a pre-approved list that could be updated as new material become available.

G. Bergman – The City could use a third party certification for the determination of failure.

J. Wallace-Brodeur – We need to be clear about what is not acceptable or doesn't work. We should draw on expert information that is already available and continue to use the criteria from the Secretary of the Interior. How do we address the issue of failure? We need to identify a mechanism to identify failure.

P. Potts – The department already uses third party certification for slate roofs. Why not for other materials?

L. Buffinton – There would be a considerable cost for owners if we require third party certification.

G. Bergman – Now that the Commission has reduced the amount of buildings to those listed, there is a great opportunity for education.

**X. Committee Reports**

Executive committee will meet on Monday the 14<sup>th</sup>.

Ordinance committee met last week and continued their discussion of Low Impact Development (LID). They also discussed retaining walls and staff will answer some questions raised.

LRPC meets on Thursday this week.

**XI. Commissioner Items**

L. Buffinton – Each Commissioner should receive a Fair Housing Report from CEDO. Staff recently added a new feature on the assessor's property database online. You can now view permit information from there which is very helpful.

**XII. Minutes/Communications**

On a motion by A. Montroll, seconded by H. Roen, the Commission unanimously adopted the January 28 meeting minutes and accepted the communications and placed them on file.

**XIII. Adjournment**

On a motion by L. Buffinton, seconded by Y, Bradley, the Commission unanimously adjourned the meeting at 8:34 pm.

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Peter Potts, Chair

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Date

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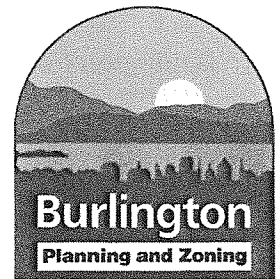
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## Burlington Planning Commission Minutes Tuesday, February 15, 2011 - 6:30 pm

**Present:** B. Baker, Y. Bradley, L. Buffinton, A. Montroll, P. Potts, J. Wallace-Brodeur

**Absent:** H. Roen

**Staff:** D. White & S. Thibault

### I. Agenda

None.

### II. Public Forum

P. Potts – Opened the public forum at 6:37pm.

P. Potts - Closed the public forum at 6:37pm.

### III. Report of the Chair

The Chair presented the following report:

- He attended the TEUC meeting last Wednesday. The committee approved the Transportation Plan and sent to City Council, with some changes, for final adoption into the MDP.
- He attended the LRPC meeting last Thursday. The committee is making progress on the Downtown & Waterfront Plan public outreach and engagement strategy.
- Staff will be attending the APA annual conference in Boston in April and it conflicts with the Commission's meeting on the 12<sup>th</sup> of April. He would like to move that meeting to April 5.

### IV. Report of the Director

The Director presented the following report:

- On Monday, the City Council approved the HUD cooperative agreement for the Downtown & Waterfront Plan grant. The official project start date is today, February 15, 2011.
- The department received the first proposals for the Land Use Inventory and Buildout Analysis. Staff is ready to finalize a contract with one firm. Other tasks are being queued in as we speak.
- He will be out on vacation next week, returning on March 3.

### V. Public Hearings: ZA-11-06 & ZA-11-07

P. Potts – Opened the public hearing for ZA-11-06 – **Enterprise-Light Manufacturing (E-LM) Expansion** at 7:00pm.

D. White – On January 11, the Commission warned this proposed amendment to rezone a parcel of land at 43 Birchcliff Parkway in the back of the Lake Champlain Chocolates property on Pine Street. The

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property is already under commercial use. The proposal also includes the rezoning of a sliver of land on the south side of the LCC property, land that will be purchased from the School District.

P. Potts – Closed the public hearing at 7:06pm

**On a motion by A. Montroll, seconded by Y. Bradley, the Commission unanimously approved ZA-11-06 and sent to City Council for final adoption.**

D. White – ZA-11-07-Downtown Mixed-Use Residential District Setback is meant to enable exceptions for encroachments into required setbacks from a residential district. This would be allowed only for pre-existing encroachments that abut a Residential High-Density District. Provisions would not allow building closer than 5 feet from the property line and would limit the height of the building not to exceed the existing height of no more than 35 feet.

P. Potts – Opened the public hearing for ZA-11-07 at 7:16pm.

J. Killacky – Our request is to enclose the loading dock mainly for life safety issues for crew. The loading currently opens right into the theater and energy costs are very high in the winter. This enclosure could save the theater 10% in energy savings.

P. Potts – Closed the public hearing at 7:21pm.

**On a motion by A. Montroll, seconded by Y. Bradley, the Commission unanimously approved ZA-11-07 with amendments and sent to City Council for final adoption.**

## **VI. Historic Building Materials Discussion**

P. Potts – The Commission will continue its discussion with number 12 of the decision points.

L. Buffinton – It is opening a can of worms to begin with the notion of failure. It is an easy threshold when it comes to roofs but not for other materials. A window might not completely fail but could not be functional and require replacement.

D. White – The threshold often used by staff is that the cost of repair should not exceed the cost of replacement. A percentage of failure could be used but is much harder.

Y. Bradley – What if the windows are ok? An owner should still be able to replace them if he/she wants.

D. White – If windows don't need to be replaced, why do it? We would prefer not.

Y. Bradley – A threshold cannot be used as a blanket for everything. If historically appropriate materials are used, owners should be able to upgrade and renovate their property.

L. Kupferman – Failure might not be the right word and should be defined. If a material is not meeting health and safety requirements then it's a failure.

B. Baker – If most people can't tell the difference of a change in material, then we have reached our goal.

L. Buffinton – There seems to be an issue of functional obsolescence. We should hold a high standard and open the door for new material.

D. White – When trying to find a balance, we need to use criteria such as aesthetics. Are there others?

Y. Bradley – Durability of material.

J. Wallace-Brodeur – There is value in preserving a material before it fails.

D. White – Retention of the original material from a preservation perspective is important, but also from a waste reduction and sustainability perspective. Why throw away a perfectly good material?

J. Wallace-Brodeur – There should be a bar for allowance of replacement, not just because an owner puts money into the property that he/she should be able to do whatever.

D. White – Staff would recommend against changing good windows now.

A. Montroll – If one of our goals is to keep material out of the landfills, then it should be a requirement regardless of the age of the building, this is not a simply historic preservation related goal. Would durability of a material trump historic material usage?

Y. Bradley – The landfill argument is a double standard because if an owner is returning to the original material then we don't care if they throw away a non-historic material.

A. Montroll – In-kind replacement is never really in-kind because new materials do not use the same glass or wood. Similar might be a better threshold. If it looks the same then good. We are not looking to get the museum effect.

J. Wallace-Brodeur – What is the trigger to allow replacement? She would like to better understand the other issues that come into play, such as life safety and where conflicts occur. We still need a threshold for replacement allowance.

D. White – Is there undue adverse impact on the historic resource?

A. Montroll – If it still looks the same then there is no adverse effect.

Y. Bradley – Aesthetics and quality of life are important. What is an owner wants to change its windows for noise factors? If someone lives in an historic district, it should be seen as a positive.

P. Potts – Does each factor have the same weight?

Y. Bradley – Factors might mean or be at different levels of importance for different people.

A. Montroll – Any one criterion on the list could be enough to warrant a replacement. We ought to decide how to use the list.

D. White – It seems that tonight the Commission is opening up the discussion to replacement being allowed anytime.

J. Wallace-Brodeur – If anyone can do anything with their property then why are we having this discussion? If other factors trump preservation, ok, but if anything can be done for no reason, then there is no point.

A. Montroll – It needs to look the same if changes are allowed anytime.

C. Tully – Historic homes don't exist in a vacuum. Owners should have the right to replace with material that looks the same, no matter the reason. It doesn't detract from what Burlington has to offer.

## **VII. Burlington Transportation Plan**

D. White – Presented the TEUC's changes to the Transportation Plan as sent to the City Council. (See material in packet for 2/15 meeting)

On a motion by A. Montroll, seconded by L. Buffinton, the Commission unanimously endorsed those changes and asked staff to report back to the City Council.

## **VIII. Committee Reports**

Executive committee met on Monday and planned the discussion on historic building materials for tonight. The March 8 and 22 meeting agendas are also ready. Concerning the demolition by neglect issue that was brought up at the last meeting, staff will be discussing that issue and then will bring it to the Commission. The EC also added Major Impact Review to the list of topics to be dealt with this year, once comments on the Neighborhood Meeting Requirement proposal are received from the NPAs.

LRPC has been discussing how to involve stakeholders into the planning process for the Downtown & Waterfront Plan, especially those who don't usually participate in the process.

**IX. Commissioner Items**

None.

**X. Minutes/Communications**

On a motion by A. Montroll, seconded by Y. Bradley, the Commission unanimously accepted the communications and placed them on file.

**XI. Adjournment**

On a motion by L. Buffinton, seconded by Y. Bradley, the Commission unanimously adjourned the meeting at 8:55 pm.

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Peter Potts, Chair

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Date

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Sandrine Thibault, recording secretary